IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

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ORDER

S.B. CIVIL WRIT PETITION 2410/2003- NARAYAN LAL SAGAR VS. STATE OF RAJASTHAN & ORS.

WRIT PETITOIN UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 21st November, 2006

PRESENT

HON'BLE MR.MOHAMMAD RAFIQ,J.

Mr.Sandeep Shah, Advocate, for the petitioner.
Mr.Rameshwar Dave, Dy. Government Advocate, for the respondents.

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BY THE COURT: -

This writ petition has been filed by the petitioner Narayan Lal Sagar that the prayer that the charge-sheet dated 25.10.1995 as amended by memorandum dated 5.4.1997 may be quashed and set aside and the respondents may be directed

to grant him pensionary benefits and retiral benefits alongwith interest @ 18% per annum.

The respondents in their reply to the writ petition however contended that the Government by order dated 27.3.2004 has decided to drop the inquiry because while in the earlier inquiry, the matter was proceeded ex-parte against the petitioner because he did not appear and finally the Joint Director submitted his inquiry report on 22.2.1999, but subsequently the matter was remanded by the Government for denovo inquiry by its order dated 8.8.2002. Taking however note of the fact that petitioner had retired from service on 30.6.1997 and period of more than five years has elapsed and most of the record to prove charges not available, the inquiry was dropped.

It has also been submitted that in compliance of the order passed by this Court in S.B. Civil Writ Petition No.1636/1998 dated 17.7.1998 the petitioner was allowed provisional pension and after the inquiry was dropped his

pension case was finalized and he was paid arrears of pension alongwith other retiral dues on 1.11.2004.

Learned counsel for the petitioner while citing an unreported decision of this Court in S.B. Civil Writ Petition No.2906/2001-Har Dayal Rehan Vs. State of Rajasthan & Anr. Decided on 20.10.2003 argued that delay caused in payment of retiral dues was not owing to any fault on the part of the petitioner therefore he should be held entitled to payment of interest @ 12% per annum.

I have considered the arguments as advanced by learned counsel for the parties and perused the record.

It would be evident from the order dated 27.3.2004 that the inquiry against the petitioner was dropped. Earlier charge-sheet dated 25.7.1997 was issued to the petitioner. The Joint Director, Social Welfare Department was appointed as inquiry officer by order of the Directorate dated 15.7.1996. Subsequently however the said charge-sheet was withdrawn

and an amended charge-sheet was issued on 5.7.1997. The inquiry officer submitted his report on 20.2.1999. This inquiry was proceeded ex-parte against the petitioner because he did not appear before the inquiry officer. The Government by its order dated 8.8.2002 directed for denovo inquiry but taking note of the fact that petitioner since has already retired on 30.7.1997 and five years have gone by since then the Government decided to close the inquiry. A glance at the nature of charges in charge-sheet indicate that the petitioner was accused of embezzlement and on number of allegations of this nature, charges were framed against him. In fact, copy of the judgment passed by the court of Special Judge on 12.6.2002 also indicate that petitioner alongwith other Social Welfare Officers was tried on charges under Section 409, 409/120 IPC read with Section 5(1)(c) and 5(2) of the Prevention of Corruption Act. But in that case, the petitioner was acquitted on benefit of doubt being extended to him.

Payment of his retiral due was withheld as the same was authorized by the Rule 170, which was later replaced by Rule 7

of the Rajasthan Civil Service (Pension) Rules, 1996. Such delay therefore cannot be said to be without any basis. Had the petitioner been exonerated from the charges, his prayers perhaps would have been accepted, but in the present case, when the respondents themselves have decided to close down the inquiry showing their difficulty that they are unable to procure the complete records due to lapse of long time, it cannot be said to be a case of exoneration. The judgment citied by the learned counsel for the petitioner is also distinguishable on facts.

In the result, I find no merit in this writ petition and the same is accordingly dismissed. No order as to costs.

(MOHAMMAD RAFIQ), J.

c.p.goyal/-